**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**FIRST APPEAL No. 1136 of 1988**

**For Approval and Signature:**

**HONOURABLE MR.JUSTICE R.S.GARG**

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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**GUJARAT STATE ROAD TRANSPORT CORPORATION - Appellant(s)**
**Versus**
**AMTHIBEN WD/O.KUBERJI SANDHAJI & 5 - Defendant(s)**

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**Appearance :**
MR HARDIK C RAWAL for Appellant,
NOTICE SERVED for Respondent Nos.1 to 6.

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**CORAM : HONOURABLE MR.JUSTICE R.S.GARG**

**Date : 07/08/2007**

**ORAL JUDGMENT**

1. Mr.Hardik C. Rawal, learned counsel for the appellant.

None for the respondent though served.

2. The appellant – Gujarat State Road Transport Corporation, being aggrieved by the award dtd.16/12/1987 passed by the Motor Accident Claim Tribunal (Main), Mehsana in Motor Accident Claim Petition No.169 of 1985, is before this Court with a submission that the tribunal was unjustified in making such huge award in favour of the claimants – respondents.

3. The tribunal awarded a sum of Rs.82,000=00 in favour of the claimants holding that the income of the deceased could be Rs.7200=00 per year and out of the said amount, he must have been spending a sum of Rs.2400=00 per year on his own self and as such was providing financial support to the family for Rs.4800=00 per year. According to Mr.Raval, even if the tribunal is taken to be right in assessing the income, in case of age of a person of 40 years, multiplier of 15 could not be applied. He also submitted that the tribunal was unjustified in awarding interest at the rate of 12% per annum.

4. From the pleadings of the claimants, it can be seen that the claimants were submitting that the income of the deceased could be Rs.8000=00, evidence was brought on the records to prove that the income could be

Rs.15,000=00 per year. However, the tribunal did not rely upon the oral evidence and held that the income could be Rs.7200=00 per year. While assessing the said income, the tribunal did not take into consideration the future prospects and for no good reason, instead of holding the income to be Rs.8000=00, erred in holding the income to be Rs.7200=00 per year.

5. In the opinion of this Court, the tribunal should have held that the income of the deceased could be Rs.8000=00 per year. In the opinion of this Court, the tribunal was unjustified in making deduction to the extent of 1/3rd under the head of personal expenses of the deceased. It is to be seen that the family of the deceased was consisting of five persons, under the circumstances, 25% deduction only should have been made and the income should have been assessed at Rs.600 per month. I would readily agree with Mr.Raval that multiplier of 15 should not have been applied. I would be justified in applying multiplier of 12, the result, however, would be that the respondents – claimants would be entitled to Rs.72,000=00 per year under the head of future loss of income.

6. So far as the interest at the rate of 12% is concerned,

almost after a lapse of 20 years of the award and 23 years of the accident, I do not think that this Court should interfere on the question of interest.

7. The appeal is dismissed. Interim relief, if any, is vacated. No costs.

(R.S. GARG, J.)

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